

**REMARKS**

Claims 1-4 were examined and reported in the Office Action. Claims 1-4 are rejected. Claims 1-4 are amended. Claims 1-4 remain.

Applicant requests reconsideration of the application in view of the following remarks.

**I. Claim Objections**

It is asserted in the Office Action that claims 1-4 are objected for informalities. Applicant has amended claims 1-4 to overcome the informal objections.

Accordingly, withdrawal of the informal objections for claims 1-4 is respectfully requested.

**II. 35 U.S.C. § 101**

It is asserted in the Office Action that claim 4 is rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory matter. Applicant has amended claim 4 to overcome the 35 U.S.C. § 101 rejection.

Accordingly, withdrawal of the 35 U.S.C. § 101 rejection for claim 4 is respectfully requested.

**III. 35 U.S.C. § 102(b)**

It is asserted in the Office Action that claims 1-4 are rejected under 35 U.S.C. § 102(b), as being anticipated by U. S. Publication No. 2001/0025310 issued to Krishnamurthy et al ("Krishnamurthy"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2131,

'[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir.

1987)). “The identical invention must be shown in as complete detail as is contained in the ... claim.” (Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, *i.e.*, identity of terminology is not required. (In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)).

Krishnamurthy discloses QoS differentiation based on price (see Krishnamurthy, paragraph [0024], “[a] PQoS system includes a plurality of pricing based services ...to increase the price of bandwidth as it becomes scarce.”). Krishnamurthy, however, does not teach disclose or suggest Applicant’s limitations contained in claims 1, 3 and 4 of “the transmitting node separates multimedia application data and general application data, and the QoS data rate is based on required data rate for guaranteeing QoS based on application type.” That is, the resources in Krishnamurthy are not reserved based on the application type, but are based on the cost that a provider is willing to pay.

Therefore, since Krishnamurthy does not teach, disclose or suggest all of Applicant’s amended claims 1, 3 and 4 limitations, Applicant respectfully asserts that a *prima facie* rejection under 35 U.S.C. § 102(b) has not been adequately set forth relative to Krishnamurthy. Thus, Applicant’s amended claims 1, 3 and 4 are not anticipated by Krishnamurthy. Additionally, the claim that directly depends on claim 1, namely claim 2, is also not anticipated by Krishnamurthy for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 102(b) rejections for claims 1-4 are respectfully requested.

**CONCLUSION**

In view of the foregoing, it is submitted that claims 1-4 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

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By: 

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**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below to the United States Patent and Trademark Office.



Jean Svoboda

Date: August 21, 2007